

### REMARKS

Reconsideration of this application is requested in view of amendments to the specification and claims and the remarks presented herein.

The claims in the application are claims 5 to 15, all other claims having been cancelled.

Applicants are submitting herewith an Abstract of the Disclosure on a separate sheet of paper and it is requested that the same be added to the application as the last page thereof and it is intended to replace the original Abstract objected to by the Examiner.

The Examiner objected to the declaration as being defective since there were non-initialled and/or non-dated alterations had been made to the declaration.

Applicants respectfully traverse this objection since it is believed clear that the declaration as filed was proper. The second inventor had originally assigned in a blank space on the declaration and then he realized that he had not signed under his typed name and resigned and dated the same and merely crossed out his original signature. Therefore, it is believed that the first declaration is proper and acceptance thereof is requested.

Claims 2 and 7 to 12 were rejected under 35 USC 112, first paragraph, as not being enabling for the scope of the claims while being enabling for an extract of Padina pavonica.

Applicants respectfully traverse this ground of rejection since the amended claims are directed to an extract of Padina pavonica and therefore, the specification is enabling therefor and withdrawal of this ground of rejection is requested.

All of the claims were rejected under 35 USC 112, first paragraph, as not being enabling for problems associated with ageing.

Applicants respectfully traverse this ground of rejection since it is deemed that the specification is enabling for the present claims which are directed to amplifying the maturation of Keratinocytes and the synthesis of cytokins and an increase of the desmosomal proteins and cytokins which the Examiner concedes the specification is enabling for. Therefore, withdrawal of this ground of rejection is requested.

The Examiner was further of the opinion that the claims were vague and indefinite and lacked antecedent basis for certain terms and it is deemed that the present claims clearly comply with 35 USC 112, second paragraph, and withdrawal of these grounds of rejection is requested.

Claims 2 to 6, 11 and 12 were rejected under 35 USC 102 as being anticipated by the "Synthesis from the Sea" article and claims 3 to 6, 11 and 12 were rejected as being anticipated by U.S. Patent No. 5,961,981. Claims 2 to 12 were rejected under 35 USC 103 as being obvious from the "Synthesis from the Sea" article or as being obvious over the '981 patent. The Examiner alleges that the "Synthesis from the Sea" article discloses cosmetic formulations containing an extract of Padina pavonica to protect the skin against free radicals and other irritations. The '981 patent allegedly discloses topical application of cosmetic compositions containing an extract obtained from algae of the Dictyotales family and deems that the present claims would be obvious therefrom.

Applicants respectfully traverse these grounds of rejection since the references cited by the Examiner do not anticipate or render obvious Applicants' invention. The Synthesis from the Sea article relates to the use of cosmetic formulations containing an extract of Padina pavonica that protects the skin against free radicals and other irritations. In contrast thereto, the present invention is directed to a method of amplifying the maturation of Keratinocytes and amplifying a synthesis of cytokins with an increase in the desmosomal proteins in cytokeratins and this is a completely different teaching than that of the Synthesis from the Sea article which teaches using an extract of Padina pavonica for the protection of skin while Applicants' invention is directed to

a method of repairing the skin characteristics as indicated in the last paragraph of page 2 of the application. These characteristics are sought after by the cosmetic industry which would be encouraged to place on the market compositions capable of endowing the skin with greater qualities of resistance. The maturation of epithelial cells is sought after when skin graphs are carried out and in a general way during the culture of keratinocytes and therefore, the teaching of the Synthesis from the Sea article is completely non-analogous to Applicants' invention and withdrawal of this ground of rejection is requested.

The Gutierrez patent does not teach Applicants' novel method nor does it specifically teach extracts of the algae of Padina pavonica but merely of plants of the dictyoliales family and does not specifically disclose Applicants' algae. Moreover, it does not teach Applicants' claimed method of amplifying the synthesis of cytokins and an increase of the desmosomial proteins and cytokeratins and therefore, it does not anticipate or render obvious Applicants' invention. Therefore, withdrawal of this ground of rejection is requested.

In view of the amendments to the specification and claims and the above remarks, it is believed that the claims clearly point out Applicants' patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,  
Bierman, Muserlian and Lucas

By:



Charles A. Muserlian #19,683  
Attorney for Applicants  
Tel.# (212) 661-8000

CAM:ds  
Enclosures

GEI-088

ABSTRACT OF THE DISCLOSURE

Topical compositions containing an alga extract from the Dicyotal family in the production of compositions containing an alga extract as an active ingredient which results in the maturation of Keratinocytes and the increase of desmosomial proteins for use by administration on the skin, mucuous membranes and teguments and on parts of the body subject to problems caused by ageing.

**MARKED UP VERSION OF CLAIMS SHOWING CHANGES MADE**

**Claim 12** (amended) A method [of] for endowing skin with better quality of resistance by applying the maturation of Keratinocytes and amplifying the synthesis of the cytokins and an increase of the desmosomial proteins and cytokeratins in a warm-blooded animal [which consists in] comprising applying on the body of said warm-blooded animal an amount of a cosmetic composition containing an active extract of Padina pavonica [algae of the Dictyotales family,] effective to effect said amplification [for limiting the problems connected to ageing].

**Claim 5** (twice amended) The method of claim 4 wherein the extract of Padina pavonica is incorporated into a support or vehicle appropriate for topical preparations in an oily phase, or dry.

**Claim 6** (twice amended) The method of claim 3 wherein the extract of Padina pavonica is incorporated into a solution of polyethylene glycol containing a dispersant or a surfactant, and in which a silicone oil is added to the solution by produce a fluid emulsion.

**Claim 9** (twice amended) The method of claim 12 wherein the concentration of extract of [algae] Padina pavonica is up to 200,000 Units (UA) per liter.

**Claim 10** (twice amended) The method of claim 3 wherein the Padina pavonica extract content is 20 to 80,000 Unites of activity (UA) per kg of active principle on a support, per kg of final topical composition.